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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/892,800	06/27/2001	Robert Andrew Byers JR.	1535-001	9649

7590 12/29/2005
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EXAMINER

THEIN, MARIA TERESA T

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 12/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/892,800	Applicant(s) BYERS ET AL.	
	Examiner Marissa Thein	Art Unit 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5,8,9,15,16,18,19,21-30,32,33 and 35-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5, 8-9, 15-16, 18-19, 21-30, 32,33, and 35-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 8, 2005 has been entered.

Response to Amendment

Applicants' "Amendment" filed on October 8, 2005 has been considered.

Applicants' response by virtue of amendment to claim 9 has overcome the Examiner's rejection of such claim under 35 USC §101.

Applicants' response by virtue of amendment to claims 1, 2, 5, 8 and 9 has overcome the Examiner's rejection of such claim under 35 USC §112, first and second paragraphs.

Claims 1, 8, 9, 21 and 35 are amended. Claims 1,2, 5, 8-9, 15-16, 18-19, 21-30, 32-33 and 35-42 remain pending in this application.

Claim Objections

Claim 35 objected to because of the following informalities:

"The system as claimed in claim 34" should be --The system as claimed in claim 29--. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 5, 8-9, 15-16, 18-19, 21-30, 32-33 and 35-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,970,475 to Barnes in view of U.S. Patent Application Publication No. 2002/0065736 to Willner et al.

Regarding claim 1, Barnes discloses a method for selling products over an electronic network, the method consisting of the steps of:

identifying a user (see at least col. 6, lines 38-40; col. 6, lines 45-48);

transmitting a user specific order entry form (old requisition request, Figure 1), the order entry form comprising at least one user specific product, a user specific price for the at least one product and a quantity entry field (see at least col. 6, lines 54-65; col. 9, lines 33-35; col. 9, lines 51-54; col. 19, lines 56-58; Figure 11), wherein the user specific order entry form comprises a user specific purchase history form comprising all products that were purchased (Repeat from an old Requisition Request 133, Figure 11);

receiving a quantity of at least one product entered into the quantity entry field by the user (see at least col. 18, lines 42-44; col. 21, lines 48-50, Figure 11);

transmitting a shopping cart comprising each of the at least one product selected by the user (see at least col. 18, lines 45-54; col. 22, lines 46-54; Figure 11; and

receiving an instruction from the user to process an order (see at least col. 22, lines 46-61; Figure 11).

However, Barnes does not explicitly disclose wherein the quantity entry field is the only field on the user specific order entry form in which entry of data by the user is required purchase the at least one product. Barnes discloses making a purchase and using a repeat from an old requisition request (Figure 11). The requisition request in Barnes is used as a purchase order to suppliers (col. 9, lines 33-34). The repeat from an old requisition request can be edited, which can include the quantity (Figure 11).

Willner, on the other hand, teaches the quantity entry field is the only field on the user specific order entry form in which entry of data by the user is required purchase the at least one product (Figure 6B; Figure 11; paragraph 20).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Barnes, to include the quantity entry field is the only field on the user specific order entry form in which entry of data by the user is required purchase the at least one product, as taught by Willner, in order to have an organized way of purchasing goods and services (Willner paragraph 9), thus providing an ordering method that is not a time-consuming process (paragraph 7).

Regarding claims 2-5, Barnes discloses the user specific entry form that further comprises an internal part number associated with at least one previously ordered product (see at least Ref. no. 133, Figure 11; col. 22, lines 48-49); and a user specific order entry form that further comprises at least one previously quoted product (see at least Figures 11-12; col. 22, lines 46-53).

Regarding claims 8, Barnes substantially discloses the claimed invention, however, Barnes does not disclose purchasing form comprises a total of the at least one previously ordered product that was purchased during the specified time period.

Barnes discloses all users can view status and history of orders and generate reports (see at least Figures 11-12; col. 22, lines 46-53). Furthermore, Barnes discloses the Bank server can provide various reports on Customer transactions, where all ACH transactions have a full event history (see at least col. 18, lines 23-30). Moreover, Barnes discloses the customer or buyer has access to select audit existing reports or access "user-defined reports" at which the user can define in a format that is useful to the user (see at least col. 23, lines 43-48). Willner, on the other hand, teaches the total of the at least one previously ordered product that was purchased during the specified time period (paragraphs 58-59; paragraph 70).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Barnes to include the total of the at least one previously ordered product that was purchased during the specified time period, as taught by Willner, in order to have an organize way of purchasing goods and services (Willner paragraph 9), thus providing an ordering method that is not a time-consuming process (paragraph 7).

Regarding claim 9, Barnes discloses an icon having a link to a product information order entry form (see at least col. 22, line 46-col. 23, line 22; Figures 9, 11-13).

Regarding claim 15, Barnes discloses a computer program product for selling products over an electronic network, the computer program product comprising:

means for identifying a user (see at least col. 6, lines 38-40; col. 6, lines 45-48);

means for transmitting a user specific order entry form (old requisition request, Figure 1), the order entry form comprising at least one user specific product, a user specific price for the at least one product and a quantity entry field (see at least col. 6, lines 54-65; col. 9, lines 33-35; col. 9, lines 51-54; col. 19, lines 56-58; Figure 11), wherein the user specific order entry form comprises a user specific purchase history form comprising all products that were purchased during a specified time period (Repeat from an old Requisition Request 133, Figure 11);

means for receiving a quantity of at least one product entered into the quantity entry field by the user (see at least col. 18, lines 42-44; col. 21, lines 48-50, Figure 11);

means for transmitting a shopping cart comprising each of the at least one product selected by the user (see at least col. 18, lines 45-54; col. 22, lines 46-54; Figure 11; and

means for receiving an instruction from the user to process an order (see at least col. 22, lines 46-61; Figure 11).

However, Barnes does not explicitly disclose wherein the specified time period and the quantity entry field is the only field on the user specific order entry form in which entry of data by the user is required purchase the at least one product. Barnes discloses making a purchase and using a repeat from an old requisition request (Figure 11). The requisition request in Barnes is used as a purchase order to suppliers (col. 9,

lines 33-34). The repeat from an old requisition request can be edited, which can include the quantity (Figure 11).

Willner, on the other hand, teaches the specified time period and the quantity entry field is the only field on the user specific order entry form in which entry of data by the user is required purchase the at least one product (Figure 6B; Figure 11; paragraph 20; paragraph 59; paragraph 70).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the computer program product of Barnes, to include the quantity entry field is the only field on the user specific order entry form in which entry of data by the user is required purchase the at least one product, as taught by Willner, in order to have an organized way of purchasing goods and services (Willner paragraph 9), thus providing an ordering method that is not a time-consuming process (paragraph 7).

Regarding claims 16 and 18-19, Barnes discloses the user specific entry form that further comprises an internal part number associated with at least one previously ordered product (see at least Ref. no. 133, Figure 11; col. 22, lines 48-49); transmitting a user specific order template that further comprises a new product entry field (see at least Figures 11-12; col. 22, lines 46-53); and a user specific order template, the order template further comprising at least one previously quoted product (see at least Figures 11-12; col. 22, lines 46-53).

Regarding claims 21-22, Barnes substantially discloses the claimed invention, however, Barnes does not disclose means for displaying a date range form; means for receiving a data entered into the said data entry field by the user; and a total of the at

least one previously ordered product that was purchased during the specified time period.

Barnes discloses a repeat old requisition request (Figure 11). Furthermore, Barnes discloses all users can view status and history of orders and generate reports (see at least Figures 11-12; col. 22, lines 46-53). Moreover, Barnes discloses the customer or buyer has access to select audit existing reports or access "user-defined reports" at which the user can define in a format that is useful to the user (see at least col. 23, lines 43-48). Willner, on the other hand, teaches means for displaying a date range form; means for receiving a data entered into the said data entry field by the user; and the total of the at least one previously ordered product that was purchased during the specified time period (paragraphs 58-59; paragraph 70).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Barnes to include the date range form; means for receiving a data entered; and the total of the at least one previously ordered product that was purchased during the specified time period, as taught by Willner, in order to have an organize way of purchasing goods and services (Willner paragraph 9), thus providing an ordering method that is not a time-consuming process (paragraph 7).

Regarding claims 23-25, Barnes discloses an icon having a link to a product information order entry form; an icon having a link to a peer review form; and an icon having a link to a product protocol form (see at least col. 22, line 46-col. 23, line 22; Figures 9, 11-13).

Regarding claims 26-28, Barnes discloses sort filed; transmitting a payment option form and receiving an instruction from the user to utilize a specified payment option; and transmitting a facility option form and receiving an instruction from the user to utilized a specified facility option (see at least col. 8, lines 36-61; col. 18, lines 42-55; col. 23, lines 36-43; col. 25, lines 26-40).

Regarding claims 29-30 and 32-33, the claims recite a system that are parallel in scope to claims 15-16 and 18-19 above and are rejected under similar grounds.

Regarding claims 35-36, the claims recite a system that are parallel in scope to claims 21-22 above and are rejected under similar grounds.

Regarding claims 37-42, the claims recite a system that are parallel in scope to claims 23-28 above and are rejected under similar grounds.

Response to Arguments

37 U.S.C. 1.131 Declaration

Applicants remark that “the invention claimed in the present application was invented prior to May 23, 2000 and, consequently, that the Wilner reference cannot be used as prior art in the rejections under 35 USC 103. In support of this assertion, the Applicants have submitted the attached “Declaration Under 37 CFR 1.131 of Robert Andrew Byers, Jr.”

The Declaration filed on October 8, 2005 under 37 CFR 1.131 has been considered but is ineffective to overcome the Wilner reference.

The declaration does not clearly explain which facts or data applicant is relying on to show completion of his or her invention prior to the particular date. Vague and

general statements in broad terms about the exhibits describe along with a general assertion that the exhibits describe a reduction to practice “amounts essentially to mere pleading, unsupported by proof or a showing of facts” and, thus does not satisfy the requirements of 37 CFE 1.131(b). Applicants must give a clear explanation of the exhibits pointing out exactly what facts are established and relied on by applicant.

37 U.S.C. 1.132 Declaration

The Declaration under 37 CFR 1.132 filed October 8, 2005 is insufficient to overcome the rejection of claims 1, 2, 5, 8-9, 15-16, 18-19, 21-30, 32-33, and 35-42 based upon a specific reference applied under 35 U.S.C. 103 as set forth in the last Office action because:

The Examiner takes note of the fact that the Declaration of Kenneth R. Taylor only offers an opinion that the claims are patentable. Furthermore, the Declaration of Kenneth R. Taylor offers opinions that are legal conclusion, which is not entitled to any weight. Moreover, the Declaration was found not to be persuasive because of a lack of factual support.

Requirement for Information under 37 C.F.R. 1.105

Applicant and the assignee of this application are required under 37 CFR 1.105 to provide the following information that the examiner has determined is reasonably necessary to the examination of this application.

In response to this requirement, please provide the relationship of Kenneth R. Taylor to the inventors and assignee.

This requirement is an attachment of the enclosed Office action. A complete reply to the enclosed Office action must include a complete reply to this requirement. The time period for reply to this requirement coincides with the time period for reply to the enclosed Office action.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marissa Thein whose telephone number is 571-272-6764. The examiner can normally be reached on M-F 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alex Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mtot
December 19, 2005



STEVE B. MCALLISTER
PRIMARY EXAMINER